

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 13TH DECEMBER 2006 / 22ND AGRAHAYANA 1928

WP(C).No. 23037 of 2004(P)

PETITIONER:

**SATHI K.V. VADAKKEDATH HOUSE,
W/O.LATE KUNHIKRISHNAN V.I. ERAYAMKUDI P.O.
MAMBRA, THRISSUR 680 308.**

**BY ADV. SRI.P.RAMAKRISHNAN
SMT.PREETHI KESAVAN**

RESPONDENTS:

- 1. THE UNION OF INDIA, REP. BY SECRETARY,
MINISTRY OF DEFENCE, NEW DELHI.**
- 2. THE CHIEF CONTROLLER OF DEFENCE,
PENSION G3/RA/SECTION, CCDA (P),
ALLAHABAD.**
- 3. THE OFFICER IN CHARGE - RECORDS,
MADRAS REGIMENT ABHILEK KARYALAYA,
WELLINGTON (NILGIRIS).**
- 4. THE DEFENCE PENSION DISBURSING OFFICER,
O/O.DPDO. CHEMBUKKAVU, THRISSUR - 20.**

**BY ADV. SRI.JOHN VARGHESE, ASSISTANT SG
SRI.THOMAS MATHEW NELLIMOOTTIL,SR.P.ARM**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE LETTER DT.6.8.96 FROM THE 3RD RESPONDENT TO THE 2ND RESPONDENT.

EXT.P2:- COPY OF THE LETTER DT.11.12.96 FROM THE 3RD RESPONDENT TO THE PETITIONER.

EXT.P3:- COPY OF THE LETTER DT.5.4.99 FROM THE 4TH RESPONDENT TO THE PETITIONER.

EXT.P4:- COPY OF THE LETTER DT 9.7.99 FROM THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P5:- COPY OF THE LAWYERS NOTICE DT.21.10.99 ISSUED TO RESPONDENT 1 TO 4.

.EXT.P6:- COPY OF THE LETTER DT. NIL . 11.99 FROM THE 3RD RESPONDENT TO THE 4TH RESPONDENT.

RESPONDENTS EXHIBITS

EXT.R1(a):- COPY OF THE PENSION PAYMENT ORDER NO.PPO NO.D/678/67 DT.10.3.67.

EXT.R1(b):- COPY OF THE RXTENSION ORDER NO.PPO NO.D/RA/17893/86 DT.21.1.87.

EXT.R1(c):- COPY OF THE LETTER NO.8-96/10930/II DT.7.11.96.

EXT.R1(d):- COPY OF THE LETTER NO.2552617/RSMB/109/PG-4 DT.11.12.1996.

.EXT.R1(e):- COPY OF THE LETTER NO.2552617/RSMB/122/PG-4 DT.5.7.99.

EXT.R1(f):- COPY OF THE LETTER NO.255617/RSMB/144/PG-4 DT.31.12.99.

EXT.R1(g):- COPY OF THE EXTRACT OF THE RELEVANT ARMY ORDER NO.417/74 DT.NIL.

/TRUE COPY/

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KURIAN JOSEPH, J.

W.P.(C) No. 23037 of 2004

Dated 13th December, 2006.

J U D G M E N T

The late husband of the petitioner, V.I.Kunhikrishnan was in receipt of disability pension for almost three decades, from 1966 to 1996. According to the respondents, the same was discontinued since on assessment by the Re-survey Medical Board, the disability was below 20%. However, as contended by the learned Assistant Solicitor General, owing to an inadvertant mistake, the service element of pension continued to be disbursed from 8.8.1996 to 31.1.1999. Sri.Kunhikrishnan died on 17.9.2000. After around four years, steps have been taken to recover the said amount of Rs.44,093/- paid to Sri.Kunhikrishnan, from the petitioner. According to the petitioner, she is entitled to pursue the grievance against the assessment made by the Re-Survey Medical Board and to get the disability pension till the demise of her husband. Be that as it may, since the entire payments were made during the life time of Sri.Kunhikrishnan, since he is no more and since he died of the decease only, and taking note of the factual position that in any case, for three decades, the

disability pension was accepted also, it is not necessary to recover the same.

2. Counsel for the petitioner submits that since her husband died of the illness, for which disability pension was originally granted, she may be permitted to move the Government of India for family pension. It is for her to file an appropriate representation in that regard before the Government of India.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J

O.P.No. of 2002

J U D G M E N T

Dated 13th December, 2006.